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FISCAL IMPACT REPORT

SPONSOR Griego DATE TYPED 1/26/05 HB _____
 SHORT TITLE Limit Child Support Payments to Principal SB 195
 ANALYST Weber

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB 162

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Human Services Department
 Attorney General

SUMMARY

Synopsis of Bill

Senate Bill 195 limits the powers of the Child Support Enforcement Division (CSED) to the collection of child support principal only and relieves CSED from assessing, calculating, collecting, and distributing interest.

Significant Issues

The Human Services Department comments.

CSED has just over 70,000 child support cases, 36,023 of them have established court orders, with stipulations to accrue interest on delinquent debt. The number of cases where interest was billed in January 2005 was 29,650 (indicating that they have had a delinquency in paying child support). The number of cases where monthly payments are being made, including interest, is estimated at 18,151 or 61%. Therefore, 11,500 are not making monthly payments on their accruing balance, which includes interest.

Statistically, 60 % of non-custodial parents (NCPs) make less than \$20,000.00 annually. The vast majority of our delinquent cases are low-income non-custodial parents. So each month that

goes by has more and more NCPs that cannot afford to pay anything more than their current support amounts, because like a credit card debtor they have balances, which can never be paid off by just paying the minimum payment.

The federal Office of Child Support Enforcement (OCSE) has recognized this trend nationally. Its Strategic Plan of December 2004, stressed the need for have states to implement innovative programs to prevent the build-up of unpaid support and interest.

Currently, under statute 40-4-7.3, CSED is empowered to assess interest on delinquent child support at the rate of four percent. The 46th Legislative Session decreased the interest rate from 8 ³/₄ percent from the law's effective date forward. As CSED implemented this change across its administrative systems, the change proved more complicated than first envisioned. The idea to eliminate interest altogether seemed even more feasible than just reducing it to four percent.

The bill change would:

- Allow the Department to discontinue assessing interest on cases.
- Reduce the time Department attorneys and the courts must spend on each case.
- Preserve the right of the custodial parent to bring a separate action to collect interest (because there are situations where child support obligors definitely should be assessed interest).
- Also preserves the right of CSED to attempt to assess and collect interest in certain extremely egregious cases

PERFORMANCE IMPLICATIONS

HSD reports the following two performance indicators may be impacted.

Amount of child support collected, in millions of dollars.

Percent of current support owed that is collected.

FISCAL IMPLICATIONS

There is no direct impact on revenues or expenditures. HSD does anticipate some savings related to a simpler administrative tasks.

TECHNICAL ISSUES

The Attorney General notes.

1. Statutes are prospective only unless the Legislature makes clear that a statute applies retroactively. The principal only limitation may be applicable only to future support orders. The Legislature should clarify whether the department will continue to collect interest in the future under existing child or spousal support orders that include assessment of interest.
2. The authority allowing HSD to assess and collect interest if "the department determines that the circumstances warrant assessment and collection of interest" may be impermissibly vague.